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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,199	05/31/2001	James M. Kain	20341-67618	9889

7590 01/28/2004
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Barnes & Thornburg
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Indianapolis, IN 46204

EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/871,199

Applicant(s)

KAIN, JAMES M.

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Applicant's amendment filed 16 September 2003 reads over the final rejection in Paper No. 8. Therefore, the final rejection has been withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 3, 6-12, 25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,478,372 B1 to Lemmeyer et al. in view of U.S. Patent No. 364,519 to Kauffman.

Lemmeyer et al. disclose a vehicle seat assembly that is basically the same as that recited in claims 2, 3, 6-12, 25, and 27-29 except that the armrest lacks upper and lower wings, as recited in the claims. See Figures 1-7 of Lemmeyer et al. for the teaching that the vehicle seat assembly has a seat 10 (Fig. 2) with a seat bottom 14 (Fig. 2) and seat back 12 (Fig. 2), a cantilevered armrest 16 (Fig. 2) projecting from the seat back, an arm (Fig. 1B) with a free end 21 (Fig. 1B) included in the cantilevered armrest, a top surface 104 (Fig. 1B) of the arm adapted to support a forearm of an occupant, a lower edge 106 (Fig. 1B) of the arm spaced below the top surface, a support mount 19 (Fig. 1B) appended to the arm and coupled to the seat back wherein the support mount has inner and outer flanges (Fig. 1B) positioned to lie in spaced-apart

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relation to receive a ridge of the seat back in a U-shaped channel 101 (Fig. 1B) formed in the support mount between the inner and outer flanges, a first fastener (column 6, lines 6-12) coupled to the support mount and seat back to maintain the arm in the cantilevered position, a second fastener (column 6, lines 6-12) coupled to the support mount and seat back and arranged to lie between the first fastener and the seat bottom, and fastener apertures 120,122 (Figs. 1A-1B) formed in the inner and outer flanges and the ridge of the seat back. Kauffman shows a vehicle seat assembly similar to that of Lemmeyer et al. wherein the vehicle seat assembly has a seat (Fig. 1) with a seat bottom E (Fig. 1) and a seat back C (Fig. 1), an armrest A (Fig. 2) projecting from the seat back and including an arm with a top surface and a lower edge, and a support mount (Fig. 1) appended to the arm and coupled to the seat back wherein the support mount has an upper wing (Fig. 3) rising above the arm and away from the seat bottom and a first fastener a (Fig. 2) is coupled to the upper wing as well as a lower wing (Fig. 3) extending below the arm and toward the seat bottom and a second fastener a (Fig. 3) coupled to the lower wing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat assembly of Lemmeyer et al. such that the each flange of the support mount is formed to include an upper wing rising above the arm and away from the seat bottom and the first fastener is coupled to the upper wing of each flange as well as a lower wing extending below the arm and toward the seat bottom and the second fastener is coupled to the lower wing of each flange, such as the vehicle seat assembly disclosed in Kauffman. One would have been motivated to make such a modification in view of

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the suggestion in Kauffman that a vehicle seat assembly having an armrest with upper and lower wings coupled to first and second fasteners allows for a vehicle seat that is cheap and simple to manufacture while providing an exceedingly strong armrest.

3. Claims 4, 5, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Kauffman as applied to claims 2, 3, 6-12, 25, and 27-29 above.

Lemmeyer et al., as modified, discloses a vehicle seat assembly with conventional fasteners. Lemmeyer et al. does not disclose expressly that each fastener includes a barrel with a threaded open end and a head threaded to fit in the threaded open end of the barrel, and that the second fastener is longer than the first fastener. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have each fastener include a barrel with a threaded open end and a head threaded to fit in the threaded open end, and the second fastener has a length longer than the first fastener because Applicant has not disclosed that the fasteners with the specific lengths, barrels, and heads provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the fasteners taught by Lemmeyer et al. or the claimed fastener length, barrel, and head configuration because both fastener configurations perform the same function of coupling the armrests to the seat back equally well. Therefore, it would have been an obvious matter of design choice to further modify Lemmeyer et al. to obtain the invention as specified in claims 4, 5, 30, and 31.

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4. Claims 13-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Kauffman as applied to claims 2, 3, 6-12, 25, and 27-29 above, and further in view of U.S. Patent No. 3,279,848 to Walker.

Lemmeyer et al., as modified, disclose a vehicle seat assembly that is basically the same as that recited in claims 13-24 and 26 except that the armrest lacks a load support panel, as recited in the claims. Walker shows a vehicle seat assembly similar to that of Lemmeyer et al. wherein the armrest 42 (Fig. 2) has a load support panel 49 (Fig. 1) to block pivotable movement of the armrest. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the vehicle seat assembly of Lemmeyer et al. such that the armrest has a load support panel, such as the seat assembly disclosed in Walker. One would have been motivated to make such a modification in view of the suggestion in Walker that the load support panel prevents unwanted rotation of the armrest.

Response to Arguments

5. Applicant's arguments with respect to claims 2-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The following patents are cited to further show the state of the art with respect to vehicle seat assemblies:

Des. Pat. No. 180,660 to Johnson

U.S. Pat. No. 3,891,267 to Taylor

Des. Pat. No. 359,177 to Bartlmae

U.S. Pat. No. 6,070,937 to Ginat


PCT Pub. No. 8103115-A1 to Schwarz

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE

December 23, 2003


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600